

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

World Omni Financial Corporation,)
d/b/a Southeast Toyota Finance,)
)
Plaintiff,)
)
v.)
)
Brittany N Clark a/k/a Brittany Nechelle)
Thomas,)
)
Defendant.)
_____)

C/A No. 8:23-cv-04586-JDA

OPINION AND ORDER

This matter comes before the Court on Plaintiff's motion to remand. [Doc. 12.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings. On October 5, 2023, the Magistrate Judge issued a Report and Recommendation ("Report") recommending that the motion to remand be granted.* [Doc. 28.] The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. On October 10, 2023, Defendant filed objections to the Report [Doc. 30], and Plaintiff subsequently filed a reply [Doc. 32].

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final

* The Report also recommended that pending motions to dismiss [Doc. 19], amend [Doc. 20], and update name [Doc. 21] be returned to the Anderson County Court of Common Pleas with the remand.

determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2015) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

DISCUSSION

The Magistrate Judge recommends granting the motion to remand because Defendant’s notice of removal was untimely and because the Court lacks federal question or diversity jurisdiction in this matter. [Doc. 28.] In her objections, Defendant generally objects to the Report and opposes remand, arguing that she properly asserted jurisdiction under 28 U.S.C. § 1332 because the parties are diverse and the amount in controversy exceeds \$75,000. [Doc. 30 at 1.] Defendant also contends that federal question jurisdiction pursuant to 28 U.S.C. § 1391 exists because the events giving rise to her claim occurred in “this Federal Judicial District.” [*Id.*] Defendant goes on to cite several cases that she contends support her position. [*Id.* at 2.]

The Court concludes that Defendant’s objections, liberally construed, fail to address the Report’s recommendations. As an initial matter, the Report finds that removal was untimely, that the Court lacks federal question jurisdiction as the claim arises under S.C. Code § 15-69-10, et seq., and that diversity jurisdiction is lacking based on the amount in controversy being \$33,600. The Report further concludes that Defendant

could not remove this case based on diversity jurisdiction because she is a resident of South Carolina, where this action is brought. Other than citing to the elements supporting federal question and diversity jurisdiction, Plaintiff has failed to address any of the findings in the Report. Nevertheless, out of an abundance of caution for a pro se party, the Court has conducted a de novo review of the Report, the record, and the applicable law. Upon such review, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, the motion to remand [Doc. 12] is GRANTED and this matter is REMANDED to the Anderson County Court of Common Pleas along with the other pending motions.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

February 29, 2024
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.